

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

CRAIG DOWLING,

Plaintiff,

v.

3:07-cv-163

TIM HUTCHISON, et al.,

Defendants.

MEMORANDUM AND ORDER

This is a *pro se* prisoner's civil rights action pursuant to 42 U.S.C. § 1983, in which the plaintiff alleges that, while incarcerated in the Knox County Detention Facility, he was assaulted by the defendant jailers. The matter is before the court on numerous non-dispositive motions filed by the parties.¹

Plaintiff has filed several motions to compel discovery. From a review of the record, the defendants have either complied with plaintiff's discovery requests, have properly objected to the requests, or the requested discovery does not exist. Accordingly, plaintiff's motions to compel discovery [Court File Nos. 119, 124, 132, 150, and 153] are **DENIED** as **MOOT**. The defendants' motions for extension of time to respond to discovery [Court File

¹There are also pending before the court several motions for summary judgment, which will be addressed in a later opinion.

Nos. 125 and 138] are **GRANTED NUNC PRO TUNC** as of November 18, 2009, and February 24, 2010, respectively.

Plaintiff has filed a motion for appointment of counsel. The appointment of counsel in a civil case is a matter within the discretion of the court. *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987). After careful consideration of plaintiff's motion, including the type and nature of the case, its complexity, and the plaintiff's ability to prosecute his claim, this court is of the opinion that counsel is not necessary at this time to insure that plaintiff's claims are fairly heard. *See Knop v. Johnson*, 977 F.2d 996 (6th Cir. 1992); *Mira v. Marshall*, 806 F.2d 636 (6th Cir. 1986). Plaintiff's motion for appointment of counsel [Court File No. 110] is **DENIED**.

The motion of Knox County Deputy Law Director Robert C. McConkey III to withdraw as attorney of record for defendants in their official capacity [Court File No. 131] is **GRANTED**. Robert C. McConkey III is withdrawn as counsel for the defendants and Knox County Law Director William S. Lockett, Jr. is **SUBSTITUTED** as counsel of record for the Knox County defendants.

The plaintiff having filed his responses to the pending motions for summary judgment, his motion for an extension of time within which to file his responses [Court File No. 155] is **GRANTED NUNC PRO TUNC** as of March 22, 2010. Plaintiff's motion for an extension of time within which to file his own motion for summary judgment [Court File No. 156] is **GRANTED**. Plaintiff shall have up to and including May 3, 2010, to file his own motion for summary judgment.

The defendants move to continue the trial date of May 11, 2010. The motion [Court File No. 164] is **GRANTED** to the extent the trial date of May 11, 2010, is **CANCELLED**. Another trial date will be scheduled, if necessary, pending disposition of the motions for summary judgment.

ENTER:

s/ Thomas W. Phillips
United States District Judge